

Appln No. 09/697,775
Amdt date February 28, 2006
Reply to Office action of November 28, 2005

REMARKS/ARGUMENTS

Claims 52, 54-66, 68-79, 81-83, 111, 113-114, and 116-117 are currently pending in this application. Claims 52 and 66 have been amended. The amendments find full support in the original specification, claims, and drawings. No new matter has been added. In view of the above amendments and remarks that follow, reconsideration, reexamination, and an early indication of allowance of claims 52, 54-66, 68-79, 81-83, 111, 113-114, and 116-117 are respectfully requested.

Claims 52, 54-65, 81-83, 111, and 113 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant respectfully traverses this rejection.

The USPTO's Interim Guidelines for Examination dated November 22, 2005 ("Interim Guidelines") explains that "[d]ata structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer." (Annex IV(a), 1st par.) (Emphasis added). The Interim Guidelines also state that "[i]n contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory." (*Id.*, 2nd par.) (Emphasis added).

Claim 52 recites data structures that are embodied in a computer-readable medium. Applicant submits that the claimed data structures are akin to the data structures claimed in *In re Lowry*, 32 F.3d 1579 (Fed. Cir. 1994), which the court deemed to be statutory. As in *In re Lowry*, the claimed data structures impose a physical organization of data within a memory which provide tangible benefits. (*See, Id.* at 1583). Such tangible benefits are explained in the specification:

"A particular advantage of the current inventive system is that the data structures are designed to be operationally efficient and flexible. For example, the distributed nature of the data structures means that only a minimum amount of data needs to be transmitted. Multiple data structure elements, for example, object properties tables 220, 220', can point to the same data structure element, for

Appln No. 09/697,775
Amdt date February 28, 2006
Reply to Office action of November 28, 2005

example the dialog table 230 and this data structure element only needs to be transmitted once. The stack operation described functions in concert with the distributed nature of the data structure in that, for example, the hat 214 does not have it own selector 290 but the selector 290 can still be particularized to the hat 214 when displayed. The distributed nature of the data structures also has the advantage that individual pieces of data can be independently modified without disturbing the information stored in the other data structures." (page 28, lines 4-14).

Accordingly, Applicant respectfully submits that the claimed data structures provide useful, concrete, and tangible results, and are therefore statutory. Withdrawal of the rejection under 35 U.S.C. 101 is respectfully requested.

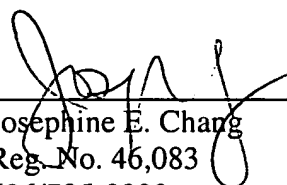
Claims 52, 54-66, 68-79, 81-83, 111, 113, 114, 116, and 117 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 52 and 66 have been amended to delete the language "wherein the application program, in response to a user command, visually identifies at least one of the plurality of objects in the video frame based on the image overly data." Withdrawal of the rejection under 35 U.S.C. 112, second paragraph, is respectfully requested.

The other amendments to claims 52 and 66 were made for clarity purposes, and not for reasons related to patentability.

In view of the above amendments and remarks, reconsideration and an early indication of allowance of claims 52, 54-66, 68-79, 81-83, 111, 113-114, and 116-117 are respectfully requested.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By



Josephine E. Chang
Reg. No. 46,083
626/795-9900